

Introduced by Senator Perata

February 22, 2005

An act relating to the Oakland Army Base, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 674, as introduced, Perata. Oakland Army Base Public Trust Exchange Act.

Through an economic development conveyance, the Oakland Base Reuse Authority acquired a portion of the former Oakland Army Base. The former Oakland Army Base includes lands that, prior to federal ownership, had been granted to the City of Oakland, as public trust lands. Existing law authorizes the City of Oakland to use and operate the granted lands in conformance with those grants and the public trust.

This bill would grant the state's sovereign interest in certain trust lands within the former Oakland Army Base, and in other lands comprising the Oakland Army Base redevelopment property, to the Oakland Base Reuse Authority. This bill would also approve an exchange of public trust lands within the Oakland Army Base redevelopment property, whereby certain trust lands that meet specified criteria and are not now useful for public trust purposes will be freed from the public trust and may be conveyed into private ownership, and certain other lands that are not now public trust lands and that are useful for public trust purposes will be made subject to the public trust.

The bill would declare that, due to the unique circumstances pertaining to the trust lands described in the bill and relating to the transfer of the Oakland Army Base out of federal ownership, a general statute within the meaning of specified provisions of the California

Constitution cannot be made applicable and a special statute is necessary.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 the Oakland Army Base Public Trust Exchange Act.

3 SEC. 2. The following definitions apply for purposes of this
4 act:

5 (a) “1911 grant” means Chapter 657 of the Statutes of 1911, as
6 amended.

7 (b) “Agency” or “ORA” means the Oakland Redevelopment
8 Agency, or any successor redevelopment agency.

9 (c) “BCDC” means the San Francisco Bay Conservation and
10 Development Commission.

11 (d) “City” means the City of Oakland, a charter city.

12 (e) “Commission” means the State Lands Commission.

13 (f) “Consent Agreement” means that agreement entitled,
14 “Consent Agreement between Oakland Base Reuse Authority,
15 City of Oakland by and through the Oakland Redevelopment
16 Agency and State of California, California Environmental
17 Protection Agency, Department of Toxic Substances Control,
18 Concerning Oakland Army Base, Oakland California,” signed on
19 behalf of DTSC on May 19, 2003.

20 (g) “Covenant to Restrict Use of Property” means the
21 “Covenant to Restrict Use of Property, Environmental
22 Restriction, Former Oakland Army Base, Oakland California” by
23 and between the Oakland Base Reuse Authority, the City of
24 Oakland by and through the Oakland Redevelopment Agency,
25 and the State of California, Department of Toxic Substances
26 Control, signed on behalf of DTSC on August 7, 2003.

27 (h) “DTSC” means the California Environmental Protection
28 Agency, Department of Toxic Substances Control.

29 (i) “EDC property” means all that real property situated in the
30 City of Oakland, California, within the former Oakland Army
31 Base, which was conveyed in fee from the United States to

OBRA by that certain “Quitclaim Deed for No-Cost Economic Development Conveyance Parcel, County of Alameda, California,” Deed No. DACA 05-9-03-567, recorded August 8, 2003, as document 2003466370 in the Official Records of Alameda County, as more particularly described in that deed.

(j) “Gateway development area” means that portion of the OARB redevelopment property located within the area defined as the Gateway development area in the reuse plan.

(k) “Governor” means the Governor of the State of California.

(l) “Granted lands” means lands granted in trust by the state to the city or other trustee pursuant to this act, the town grant, or the 1911 grant.

(m) “Lease” means any temporary rights to occupy or use property, or the grant of such rights, including, but not limited to, franchises, permits, privileges, licenses, assignments, easements, or leasehold interests.

(n) “OARB” or “base” refers to that portion of the property commonly known as the former Oakland Army Base, initially considered for disposition by the Army as part of the federal base reuse and closure process.

(o) “OARB adjacent parcels” means those portions of the OARB redevelopment property which are surrounded by or adjacent to the EDC property, but not within the EDC property, and are more particularly described as follows:

PARCEL 1, A portion of that certain Parcel of land described in that certain Indenture between the Southern Pacific Company and the United States of America, recorded March 2, 1942, in Book 4189 of Official Records, Page 197 in the Office of the Recorder of said Alameda County (hereinafter referred to as 4189 O.R. 197), being Parcel B as described in that unrecorded “Transfer and Acceptance of Military Real Property” from the Military Traffic Management Command of the Oakland Army Base to the 63rd RSC, dated December 17, 1998, (hereinafter referred to as the Building 780 Parcel), and being more particularly described as follows:

COMMENCING at City of Oakland monument No. 7SE13, said monument being a pin set in concrete, in a monument well marking the intersection of the centerlines of Maritime Street and 10th Street, as said streets are shown on that unrecorded map entitled “Oakland Army Terminal Boundary Map” prepared by

1 Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of
2 Engineers, File No. 45-I-286 (hereinafter referred to as the Army
3 Map), said monument is further described as being Port of
4 Oakland Monument ID H006 as shown upon Record of Survey
5 990, filed for record in Book 18 of Record of Surveys, at Pages
6 50-60, Alameda County Official Records;

7 Thence North $77^{\circ}06'11''$ East 1106.11 feet to the most western
8 corner of said Building 780 Parcel, said corner being marked by
9 a bolt and washer stamped "LS 6379", being the POINT OF
10 BEGINNING of Parcel 1;

11 Thence along the northwest, northeast, southeast and southwest
12 lines of said Building 780 Parcel the following eight courses:

13 1. North $8^{\circ}06'06''$ East, 425.20 feet to the most northern
14 corner of said parcel, said corner being marked by a concrete nail
15 and shiner stamped "LS 6379";

16 2. South $81^{\circ}58'14''$ East, 655.73 feet to the most eastern
17 corner of said parcel;

18 3. South $8^{\circ}01'46''$ West, 294.89 feet to the southeast corner of
19 said parcel, said corner being marked by a pipe and plug stamped
20 "LS 6379";

21 4. North $82^{\circ}02'59''$ West, 117.67 feet to an angle point in said
22 southwest line, said angle point being marked by a pipe and plug
23 stamped "LS 6379";

24 5. North $7^{\circ}49'06''$ East, 31.76 feet to an angle point in said
25 southwest line, said angle point being marked by a pipe and plug
26 stamped "LS 6379";

27 6. North $82^{\circ}00'47''$ West, 261.81 feet to an angle point in said
28 southwest line;

29 7. South $7^{\circ}59'16''$ West, 161.25 feet to an angle point in said
30 southwest line, said angle point being marked by a 2.5" brass
31 disk and bolt stamped "LS 6379";

32 8. North $82^{\circ}03'57''$ West, 276.78 feet to the POINT OF
33 BEGINNING, containing 221,199 square feet (5.078 acres) more
34 or less, measured in ground distances.

35 PARCEL 2, A portion of that Parcel of land described in that
36 certain Indenture between the Southern Pacific Company and the
37 United States of America, recorded February 15, 1979, as
38 Document 79-030025, in the Office of the Recorder of said
39 Alameda County (hereinafter referred to as Doc. 79-030025); A
40 portion of the Parcel of land described in that certain Indenture

1 between the Southern Pacific Company and the United States of
2 America, recorded March 2, 1942, in Book 4189 of Official
3 Records, Page 197 in the Office of the Recorder of said Alameda
4 County (hereinafter referred to as 4189 O.R. 197); A portion of
5 the lands described in that certain Final Judgment as to Interests
6 of Defendant City of Oakland, A Municipal Corporation, United
7 States of America vs. City of Oakland et al., Case No. 21758-L,
8 Case No. 21930-L, Case No. 22084-L, District Court of the
9 United States in and for the Northern District of California,
10 Southern Division, recorded February 24, 1960, Reel 032, Image
11 660 of Official Records in the Office of the Recorder of said
12 Alameda County herein after referred to as Reel:032, Image:660)
13 all of which being the “Parcel Encompassing Building 762” as
14 described in that certain unrecorded “Transfer and Acceptance of
15 Military Real Property” from the Military Traffic Management
16 Command of the Oakland Army Base to the 63rd RSC, dated
17 September 3, 1997, (herein after referred to as the Building 762
18 Parcel), and being more particularly described as follows:

19 COMMENCING at City of Oakland monument No. 7SE13,
20 said monument being a pin set in concrete, in a monument well
21 marking the intersection of the centerlines of Maritime Street and
22 10th Street, as said streets are shown on that unrecorded map
23 entitled “Oakland Army Terminal Boundary Map” prepared by
24 Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of
25 Engineers, File No. 45-I-286 (hereinafter referred to as the Army
26 Map), said monument is further described as being Port of
27 Oakland Monument ID H006 as shown upon Record of Survey
28 990, filed for record in Book 18 of Record of Surveys, at Pages
29 50-60, Alameda County Official Records;

30 Thence, North 43°48’16” East 958.07 feet to the most western
31 corner of said Building 762 Parcel, said corner being marked by
32 a $\frac{5}{8}$ ” rebar with plastic cap stamped “LS 5671”, being the
33 POINT OF BEGINNING;

34 Thence, along the northwest, northeast, southeast and
35 southwest lines of said Building 762 Parcel the following four
36 courses:

37 1. North 41°02’39” East, 238.78 feet to the most northern
38 corner of said parcel;

1 2. South 82°00'39" East, 299.96 feet to the most eastern
2 corner of said parcel, said corner being marked by a $\frac{5}{8}$ " rebar
3 with plastic cap stamped "LS 5671";

4 3. South 07°51'10" West, 200.86 feet to the most southern
5 corner of said parcel, said corner being marked by a $\frac{5}{8}$ " rebar
6 with plastic cap stamped "LS 5671";

7 4. North 81°54'53" West, 430.68 feet to the POINT OF
8 BEGINNING, containing 73,278 square feet (1.682 acres) more
9 or less, measured in ground distances.

10 PARCEL 3, A portion of the Parcels of land described in that
11 certain Indenture between the Southern Pacific Company and the
12 United States of America, recorded April 23, 1941, in Book 4017
13 of Official Records, Page 485 in the Office of the Recorder of
14 said Alameda County (hereinafter referred to as 4017 O.R. 485);
15 A portion of the lands described in that certain Final Judgment as
16 to Interests of Defendant City of Oakland, A Municipal
17 Corporation, United States of America vs. City of Oakland, et al.,
18 Case No. 21758-L, Case No. 21930-L, Case No. 22084-L,
19 District Court of the United States in and for the Northern
20 District of California, Southern Division, recorded February 24,
21 1960, Reel 032, Image 660 of Official Records in the Office of
22 the Recorder of said Alameda County (hereinafter referred to as
23 Reel: 32, Image:660); A portion of the lands described in that
24 certain Final Judgment as to Parcel No. 6, United States of
25 America vs. City of Oakland, State of California, et al., Case No.
26 21930-L, District Court of the United States in and for the
27 Northern District of California, Southern Division, recorded May
28 23, 1960, Reel 092, Image 111 of Official Records, in the Office
29 of the Recorder of said Alameda County (hereinafter referred to
30 as Reel:092, Image:111), all of which are more particularly
31 described as follows:

32 COMMENCING at City of Oakland monument No. 7SE13,
33 said monument being a pin set in concrete in a monument well
34 marking the intersection of the centerlines of Maritime Street and
35 10th Street, as said streets are shown on that unrecorded map
36 entitled "Oakland Army Terminal Boundary Map" prepared by
37 Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of
38 Engineers, File No. 45-I-286 (hereinafter referred to as the Army
39 Map), said monument also being Port of Oakland Monument ID
40 H006 as shown upon Record of Survey 990, filed for record in

Book 18 of Records of Surveys, at Pages 50-60, Alameda County Official Records;

Thence North 48°22'05" East, 5692.24 feet to the northern most corner of Parcel 1, Tract 1 as described in that certain Final Judgment as to Tract 1 and as to Lack of Interests of Certain Persons as to Property Subject to the Above Action, United States of America vs. Santa Fe Land and Improvement Co., Southern Pacific Railroad Company, et al., Case No. 23099-S, District Court of the United States in and for the Northern District of California, Southern Division, recorded October 22, 1951, in Book 6566 of Official Records, Page 301 in the Office of the Recorder of said Alameda County (hereinafter referred to as 6566 O.R. 301), said corner being the northwest terminus of the course described as "North 71°40'17" West 585.40 feet" in the description of said Parcel 1, Tract 1 (6566 O.R. 301), said corner being marked by a 2½" brass disk with punch mark stamped "City of Oakland Survey Station 8NW9" as shown on Record of Survey No. 1705, filed in Book 26 of Records of Surveys, at Page 1, Alameda County Official Records;

Thence along the northwestern line of said Parcel 1, Tract 1 (6566 O.R. 301) South 79°57'58" West, 9.41 feet to the beginning of a nontangent curve concave southwesterly, having a radius of 599.96 feet and a central angle of 20°37'16", from which beginning the radius point bears South 36°18'10" West;

Thence along said curve to the right, an arc distance of 215.93 feet to a point on the generally northeastern line of Parcel A as described in an unrecorded "Transfer and Acceptance of Military Real Property" from the Military Traffic Management Command of the Oakland Army Base to the 63rd RSC, dated December 17, 1998, said Parcel A being commonly referred to as the "Subaru Lot" (said Parcel A will hereinafter be referred to as the Subaru Lot), being a point on the course described as "South 70°14'01" East, 101.26 feet" in the description of said Parcel A (the Subaru Lot), and being the POINT OF BEGINNING of Parcel 3 as herein described;

Thence along the northeastern, eastern and southeastern lines of said Parcel A (the Subaru Lot) the following twelve courses:

1. South 70°14'16" East, 42.04 feet to an angle point in said line, said point being marked by a 1½" brass disk with bolt stamped "LS 6379";

1 2. South $71^{\circ}46'24''$ East, 32.44 feet to an angle point in said
2 line, said point being marked by a $1\frac{1}{2}''$ brass disk with bolt
3 stamped "LS 6379";
4 3. South $74^{\circ}35'56''$ East, 103.17 feet to an angle point in said
5 line, said point being marked by a $1\frac{1}{2}''$ brass disk with bolt
6 stamped "LS 6379";
7 4. South $71^{\circ}25'40''$ East, 87.02 feet to the beginning of a
8 nontangent curve concave southwesterly, having a radius of
9 354.97 feet and a central angle of $59^{\circ}49'02''$, from which the
10 radius point bears South $30^{\circ}09'08''$ West, said beginning of curve
11 being marked by a $1\frac{1}{2}''$ brass disk with bolt stamped "LS 6379";
12 5. along said curve to the right, an arc distance of 370.59 feet
13 to the beginning of a compound curve concave westerly, having
14 a radius of 199.99 feet and a central angle of $25^{\circ}52'29''$, said
15 point of compound curvature being marked by a nail and washer
16 with tag stamped "LS 6379";
17 6. along said curve to the right, an arc distance of 90.32 feet to
18 a point of tangency being marked by a nail and washer with tag
19 stamped "LS 6379";
20 7. South $25^{\circ}50'39''$ West, 100.04 feet to an angle point in said
21 line, said point being marked by a nail and washer with tag
22 stamped "LS 6379";
23 8. South $30^{\circ}42'24''$ West, 148.96 feet to an angle point in said
24 line, said point being marked by a nail and washer with tag
25 stamped "LS 6379";
26 9. South $37^{\circ}08'59''$ West, 99.92 feet to an angle point in said
27 line, said point being marked by a nail and washer with tag
28 stamped "LS 6379";
29 10. South $40^{\circ}33'22''$ West, 49.03 feet to an angle point in said
30 line, said point being marked by a nail and washer with tag
31 stamped "LS 6379";
32 11. South $49^{\circ}48'18''$ West, 93.04 feet to an angle point in said
33 line;
34 12. South $56^{\circ}00'39''$ West, 30.42 feet to a point on the
35 generally northeastern line of Parcel 56444 as described in that
36 certain Quitclaim Deed, recorded on February 13, 2002, as
37 Document No. 2002072863 of Official Records, in the Office of
38 the Recorder of Alameda County (hereinafter referred to as Doc.
39 2002072863), said point being the beginning of a nontangent
40 curve concave southwesterly, having a radius of 1647.00 feet and

1 a central angle of $08^{\circ}46'22''$, from which beginning point the
2 radius point bears South $46^{\circ}46'37''$ West;

3 Thence along the generally northeastern line of said Parcel
4 56444 (Doc. 2002072863) the following eight courses:

5 1. along said curve to the left, an arc distance of 252.18 feet to
6 a point from which the radius point bears South $38^{\circ}00'16''$ West,
7 being the beginning of a nontangent curve concave
8 southwesterly, having a radius of 1647.00 feet and a central angle
9 of $07^{\circ}24'24''$, from which the radius point bears South $39^{\circ}39'54''$
10 West;

11 2. along said curve to the left, an arc distance of 212.91 feet to
12 a point of tangency;

13 3. North $57^{\circ}44'30''$ West, 113.40 feet to an angle point;

14 4. North $49^{\circ}58'48''$ West, 124.70 feet to an angle point;

15 5. North $59^{\circ}26'20''$ West, 696.99 feet to an angle point;

16 6. North $38^{\circ}53'13''$ West, 28.48 feet to an angle point;

17 7. North $59^{\circ}26'21''$ West, 95.01 feet to an angle point;

18 8. North $65^{\circ}41'40''$ West, 26.04 feet to a point on the
19 generally northwestern line of said Parcel A (the Subaru Lot),
20 said point being the beginning of a nontangent curve concave
21 easterly, having a radius of 20.00 feet and a central angle of
22 $29^{\circ}55'43''$, from which beginning point the radius point bears
23 North $87^{\circ}47'11''$ East;

24 Thence along the northwesterly, northerly and northeasterly
25 lines of said Parcel A (the Subaru Lot) the following thirteen
26 courses:

27 1. along said curve to the right, an arc distance of 10.45 feet to
28 the beginning of a compound curve concave southeasterly,
29 having a radius of 199.99 feet and a central angle of $39^{\circ}56'30''$,
30 said point of compound curvature being marked by a $1\frac{1}{2}''$ brass
31 disk and spike stamped "LS 6379";

32 2. along said curve to the right, an arc distance of 139.42 feet
33 to a point of tangency being marked by a 1" iron pipe with plug
34 and tack stamped "LS 6379";

35 3. North $67^{\circ}39'24''$ East, 25.68 feet to the beginning of a curve
36 concave southerly, having a radius of 299.98 feet and a central
37 angle of $25^{\circ}11'31''$;

38 4. along said curve to the right, an arc distance of 131.90 feet
39 to a point of tangency being marked by a 1" iron pipe with plug
40 stamped "LS 6379";

1 5. South 87°09'05" East, 415.50 feet to an angle point in said
2 line, said point being marked by a 1" iron pipe with plug stamped
3 "LS 6379";
4 6. North 80°41'00" East, 170.83 feet to an angle point in said
5 line, said point being marked by a 1" iron pipe with plug stamped
6 "LS 6379";
7 7. South 70°15'39" East, 49.25 feet to an angle point in said
8 line, said point being marked by a 1½" brass disk with bolt
9 stamped "LS 6379";
10 8. South 72°38'25" East, 67.85 feet to an angle point in said
11 line, said point being marked by a 1½" brass disk with bolt
12 stamped "LS 6379";
13 9. South 69°32'54" East, 44.74 feet to an angle point in said
14 line, said point being marked by a 1½" brass disk with bolt
15 stamped "LS 6379";
16 10. South 66°07'36" East, 44.94 feet to an angle point in said
17 line, said point being marked by a ¾" brass tag in concrete
18 stamped "LS 6379";
19 11. South 63°28'21" East, 40.88 feet to an angle point in said
20 line, said point being marked by a 1½" brass disk with bolt
21 stamped "LS 6379";
22 12. South 69°21'45" East, 49.64 feet to an angle point in said
23 line, said point being marked by a 1½" brass disk with bolt
24 stamped "LS 6379";
25 13. South 70°14'16" East, 59.22 feet to the POINT OF
26 BEGINNING, containing 829,036 square feet (19.032 acres),
27 more or less, measured in ground distances.
28 Bearings and distances called for in the descriptions of Parcels
29 1, 2, and 3 herein are based upon the California Coordinate
30 System, Zone III, North American Datum of 1983 (1986 values)
31 as shown upon that certain map entitled Record of Survey 990,
32 filed in Book 18 of Record of Surveys, Pages 50-60, Alameda
33 County Records unless otherwise indicated. To obtain ground
34 level distances, multiply distances called for herein by
35 1.0000705.
36 PARCEL 4, All of Parcel 56444 as described in that certain
37 Quitclaim Deed, recorded February 13, 2002, as Document No.
38 2002072863 of Official Records, in the Office of the Recorder of
39 said Alameda County, California.

PARCEL 5, A portion of the lands described as Parcel 2 in that certain Quitclaim Deed between the State of California and the City of Oakland, recorded February 23, 1979, as Doc. No. 79-034788 of Official Records, in the Office of the Recorder of Alameda County (hereinafter referred to as Doc. 79-034788), being all that land underlying that certain aerial easement described as Parcel 1 of that certain Grant Deed between the City of Oakland and the State of California, recorded February 3, 1995, as Doc. No. 95-028117 of Official Records, in the Office of the Recorder of Alameda County (hereinafter referred to as Doc. 95-028117), and being more particularly described as follows:

COMMENCING at City of Oakland monument No. 7SE13, said monument being a pin set in concrete, in a monument well marking the intersection of the centerlines of Maritime Street and 10th Street, as said streets are shown on that unrecorded map entitled "Oakland Army Terminal Boundary Map" prepared by Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of Engineers, File No. 45-I-286 (hereinafter referred to as the Army Map), said monument is further described as being Port of Oakland Monument ID H006 as shown upon Record of Survey 990, filed for record in Book 18 of Records of Surveys, at Pages 50-60, Alameda County Official Records;

Thence North $24^{\circ}14'22''$ East, 4601.25 feet to the eastern most corner of that land underlying said aerial easement described as Parcel 1 (Doc. 95-028117), said corner being a point on the northwest line of the lands described in that certain Final Judgment as to Tract 23, United States of America vs. City of Oakland, State of California, et al., Case No. 21930-L, District Court of the United States in and for the Northern District of California, Southern Division, recorded January 11, 1950, in Book 5987 of Official Records, Page 319 in the Office of the Recorder of Alameda County (hereinafter referred to as 5987 O.R. 319), being marked by a 1" iron pipe and CalTrans cap, as shown on Record of Survey No. 1687, filed in Book 25 of Records of Surveys, at Pages 58-69, Alameda County Official Records and being the POINT OF BEGINNING;

Thence along said northwest line of said Tract 23 (5987 O.R. 319), South $71^{\circ}46'34''$ West, 315.39 feet to an angle point in the generally northwest line of the lands described in that certain

1 Final Judgment as to Tract 5, United States of America vs. City
2 of Oakland, State of California, et al., Case No. 21930-L, District
3 Court of the United States in and for the Northern District of
4 California, Southern Division, recorded February 16, 1951, in
5 Book 6361 of Official Records, Page 334 in the Office of the
6 Recorder of Alameda County (hereinafter referred to as 6361
7 O.R. 334), said angle point being marked by a 1 ½" brass disk in
8 top of concrete culvert, as shown on said unrecorded map entitled
9 "Oakland Army Terminal Boundary Map" (the Army Map);

10 Thence along the generally northwest line of said Tract 5 (6361
11 O.R. 334), South 64°17'11" West, 77.77 feet to an angle point on
12 the generally southern line of said land underlying said aerial
13 easement (Doc. 95-028117);

14 Thence along said generally southern line of said land
15 underlying said aerial easement (Doc. 95-028117) the following
16 five courses:

17 1. North 09°10'00" West, 85.90 feet to the beginning of a
18 nontangent curve concave southerly, having a radius of 1457.00
19 feet and a central angle of 12°33'12", from which beginning the
20 radius point bears South 01°08'14" West;

21 2. Along said curve to the left, an arc distance of 319.22 feet to
22 a point of tangency;

23 3. South 78°35'02" West, 301.18 feet;

24 4. South 77°23'57" West, 93.57 feet to the beginning of a
25 curve concave northerly, having a radius of 295.00 feet and a
26 central angle of 58°05'18";

27 5. Along said curve to the right, an arc distance of 299.08 feet
28 to a point on the generally northwest line of said Parcel 2 (Doc.
29 79-034788), being an angle point from which the radius point
30 bears North 45°29'15" East;

31 Thence along said generally northwest line of said Parcel 2
32 (Doc. 79-034788) North 78°23'41" East, 168.32 feet to the
33 western most corner of Parcel 2 described in that certain Grant
34 Deed from the City of Oakland to the State of California,
35 recorded February 3, 1995, as Doc. No. 95-028117 of Official
36 Records, in the Office of the Recorder of Alameda County
37 (hereinafter referred to as Doc. 95-028117), said corner being
38 marked by a railroad spike in asphalt, as shown on said Record of
39 Survey No. 1687;

Thence along the generally southern line of said Parcel 2 (Doc. 95-028117) the following six courses:

1. North $89^{\circ}46'56''$ East, 212.20 feet;
2. North $85^{\circ}56'18''$ East, 430.96 feet;
3. North $60^{\circ}51'27''$ East, 202.98 feet to the beginning of a nontangent curve concave southerly, having a radius of 1492.00 feet and a central angle of $6^{\circ}52'33''$, from which beginning the radius point bears South $03^{\circ}12'08''$ West;
4. Along said curve to the right, an arc distance of 179.05 feet to an angle point from which the radius point bears South $10^{\circ}04'41''$ West;
5. South $20^{\circ}40'48''$ East, 21.16 feet to an angle point marked by a 1" iron pipe and CalTrans cap, as shown on said Record of Survey No. 1687;
6. North $69^{\circ}19'13''$ East, 78.44 feet to a point on the generally northeast line of said Parcel 2 (Doc. 79-034788), being the beginning of a nontangent curve concave southwesterly, having a radius of 571.21 feet and a central angle of $4^{\circ}19'29''$, from which beginning the radius point bears South $28^{\circ}56'43''$ West, said point being marked by a 1" iron pipe and CalTrans cap, as shown on said Record of Survey No. 1687;

Thence along the generally northeast line of said Parcel 2 (Doc. 79-034788) the following two courses:

1. Along said curve to the right, an arc distance of 43.12 feet to a point of tangency marked by a 1" iron pipe and CalTrans cap, as shown on said Record of Survey No. 1687;
2. South $56^{\circ}43'48''$ East, 98.27 feet to the POINT OF BEGINNING, containing 127,320 square feet (2.923 acres), more or less, measured in ground distances.

Bearings and distances called for herein are based upon the California Coordinate System, Zone III, North American Datum of 1983 (1986 values) as shown upon that certain map entitled Record of Survey 990, filed in Book 18 of Record of Surveys, Pages 50-60, Alameda County Records unless otherwise indicated. To obtain ground level distances, multiply distances called for herein by 1.0000705.

(p) "OARB MOA" means the document entitled "Memorandum of Agreement for Oakland Army Base Among the Oakland Base Reuse Authority, the Oakland Redevelopment Agency, the City of Oakland, a Municipal Corporation, Acting

1 by and through its City Council, and the City of Oakland, a
2 Municipal Corporation, Acting by and through its Board of Port
3 Commissioners,” dated July 8, 2003.

4 (q) “OARB redevelopment property” means the EDC
5 property, the Port Sliver parcels, and the OARB adjacent parcels.

6 (r) “OARB trust lands” means all lands, including tidelands,
7 within the OARB redevelopment property that are presently
8 subject to the public trust or will be subject to the trust following
9 a trust exchange.

10 (s) “OBRA” means the Oakland Base Reuse Authority, a joint
11 powers agency.

12 (t) “Port” or “Port of Oakland” means the Port Department of
13 the City of Oakland established by the Charter of the City of
14 Oakland, exclusive control and management of which the charter
15 vests in the Board of Port Commissioners.

16 (u) “Port development area” means that portion of the OARB
17 redevelopment property located within the area defined as the
18 Port of Oakland development area in the reuse plan.

19 (v) “Port Sliver parcels” means all that real property situated
20 in the City of Oakland, California, comprised of portions of the
21 property granted to the city by the 1911 grant, and more
22 particularly described as follows:

23 PARCEL 1, A portion of the lands described as Parcel 2 in that
24 certain Quitclaim Deed between the State of California and the
25 City of Oakland, recorded February 23, 1979, as Doc. No.
26 79-034788 of Official Records, in the Office of the Recorder of
27 Alameda County (hereinafter referred to as Doc. 79-034788),
28 being more particularly described as follows:

29 COMMENCING at City of Oakland monument No. 7SE13,
30 said monument being a pin set in concrete, in a monument well
31 marking the intersection of the centerlines of Maritime Street and
32 10th Street, as said streets are shown on that unrecorded map
33 entitled “Oakland Army Terminal Boundary Map” prepared by
34 Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of
35 Engineers, File No. 45-I-286 (hereinafter referred to as the Army
36 Map), said monument is further described as being Port of
37 Oakland Monument ID H006 as shown upon Record of Survey
38 990, filed for record in Book 18 of Records of Surveys, at Pages
39 50-60, Alameda County Official Records;

Thence North $06^{\circ}22'58''$ West, 3704.99 feet to the western most corner of said Parcel 2 (Doc. 79-034788), said corner being marked by a concrete nail and CalTrans tag set flush, as shown on Record of Survey No. 1687, filed in Book 25 of Records of Surveys, at Pages 58-69, Alameda County Official Records, and being the POINT OF BEGINNING of Parcel 1 as herein described;

Thence along the western and generally northern lines of said Parcel 2 (Doc. 79-034788) the following three courses:

1. North $21^{\circ}36'13''$ East, 249.00 feet to an angle point marked by a 1" iron pipe and CalTrans cap under a cyclone fence, as shown on said Record of Survey No. 1687;

2. North $75^{\circ}30'42''$ East, 642.22 feet to an angle point marked by a 1" iron pipe and CalTrans cap, as shown on said Record of Survey No. 1687;

3. North $78^{\circ}23'41''$ East, 230.24 feet to the western most corner of Parcel 1 described in that certain Grant Deed from the City of Oakland to the State of California, recorded February 3, 1995, as Doc. No. 95-028117 of Official Records, in the Office of the Recorder of Alameda County (hereinafter referred to as Doc. 95-028117), said corner being the beginning of a nontangent curve concave northerly, having a radius of 295.00 feet and a central angle of $58^{\circ}05'18''$, from which beginning the radius point bears North $45^{\circ}29'15''$ East;

Thence along the generally southern line of said Parcel 1 (Doc. 95-028117) the following five courses:

1. along said curve to the left, an arc distance of 299.08 feet to a point of tangency;

2. North $77^{\circ}23'57''$ East, 93.57 feet;

3. North $78^{\circ}35'02''$ East, 301.18 feet to the beginning of a curve concave southeasterly, having a radius of 1457.00 feet and a central angle of $12^{\circ}33'12''$;

4. along said curve to the right, an arc distance of 319.22 feet to an angle point from which the radius point bears South $01^{\circ}08'14''$ West;

5. South $09^{\circ}10'00''$ East, 85.90 feet to a point on the northwest line of the lands described in that certain Final Judgment as to Tract 5, United States of America vs. City of Oakland, State of California, et al., Case No. 21930-L, District Court of the United States in and for the Northern District of California, Southern

1 Division, recorded February 16, 1951, in Book 6361 of Official
2 Records, Page 334 in the Office of the Recorder of Alameda
3 County (hereinafter referred to as 6361 O.R. 334);

4 Thence along the generally northwest line of said Tract 5 (6361
5 O.R. 334), South $64^{\circ}17'11''$ West, 319.86 feet to a point on the
6 generally southern line of Parcel "S" described in that certain
7 Indenture and Conveyance by and between the State of
8 California, acting by and through its Department of Public Works
9 and the California Toll Bridge Authority, and the City of
10 Oakland, a municipal corporation, acting by and through its
11 Board of Port Commissioners, recorded February 17, 1942, in
12 Book 4186 of Official Records, Page 156, in the Office of the
13 Recorder of Alameda County (hereinafter referred to as 4186
14 O.R. 156);

15 Thence along said generally southern line of said Parcel "S"
16 (4186 O.R. 156), South $81^{\circ}36'26''$ West, 1660.88 feet to the
17 POINT OF BEGINNING, containing 416,298 square feet (9.557
18 acres), more or less, measured in ground distances.

19 PARCEL 2, A portion of the lands described in that certain act
20 of the Legislature of the State of California entitled "An act
21 granting certain tide lands and submerged lands of the State of
22 California to the city of Oakland and regulating the management,
23 use and control thereof," approved May 1, 1911, as Chapter 657
24 of Statutes of 1911, and amendatory acts, more particularly
25 described as follows:

26 COMMENCING at City of Oakland monument No. 7SE13,
27 said monument being a pin set in concrete, in a monument well
28 marking the intersection of the centerlines of Maritime Street and
29 10th Street, as said streets are shown on that unrecorded map
30 entitled "Oakland Army Terminal Boundary Map" prepared by
31 Wilsey & Ham Engineers in 1958 for the U.S. Army Corps of
32 Engineers, File No. 45-I-286 (hereinafter referred to as the Army
33 Map), said monument is further described as being Port of
34 Oakland Monument ID H006 as shown upon Record of Survey
35 990, filed for record in Book 18 of Records of Surveys, at Pages
36 50-60, Alameda County Official Records;

37 Thence South $38^{\circ}00'05''$ West, 989.35 feet to the eastern most
38 corner of Parcel Seven as described in that certain Quitclaim
39 Deed, recorded June 15, 1999, as Doc. No. 99-222447 of Official
40 Records, in the Office of the Recorder of Alameda County

(hereinafter referred to as Doc. 99-222447), being a point on the agreed-upon location of the “Low Tide Line of 1852” as described in City of Oakland Ordinance No. 3099, a certified copy of which was recorded on October 10, 1910, in Book 1837 of Deeds, Page 84, in the Office of the Recorder of Alameda County (hereinafter referred to as 1837 Deeds 84), said point being marked by a pin set in concrete in a monument well, as shown on said Army Map;

Thence northeasterly along said agreed-upon location of the “Low Tide Line of 1852” (1837 Deeds 84) North 41°00’50” East, 3829.19 feet;

Thence departing from the said agreed-upon location of the “Low Tide Line of 1852”, North 48°48’07” West, 1380.09 feet to a point on the generally southern line of Parcel 1, Tract 14 as described in said Final Judgment as to Interests of Defendant City of Oakland, A Municipal Corporation, United States of America vs. City of Oakland et al., Case No. 21758-L, Case No. 21930-L, Case No. 22084-L (Reel: 32, Image:660), being the POINT OF BEGINNING of Parcel 2 as herein described;

Thence along the generally southern line of said Parcel 1 (Reel: 32, Image: 660) the following two courses:

1. North 86°48’30” East, 461.63 feet to an angle point;
2. South 08°03’07” West, 385.68 feet to a point on a line that bears North 48°48’07” West from the herein above described Point “A”;

Thence North 48°48’07” West, 540.75 feet to the POINT OF BEGINNING, containing 87,323 square feet (2.005 acres), more or less, measured in ground distances.

Bearings and distances called for herein are based upon the California Coordinate System, Zone III, North American Datum of 1983 (1986 values) as shown upon that certain map entitled Record of Survey 990, filed in Book 18 of Record of Surveys, Pages 50-60, Alameda County Records unless otherwise indicated. To obtain ground level distances, multiply distances called for herein by 1.0000705.

(w) “Public trust” or “trust” means the public trust for commerce, navigation, and fisheries.

(x) “RAP/RMP” means the “Final Remedial Action Plan, Oakland Army Base, Oakland, California” and “Final Risk Management Plan, Oakland Army Base, Oakland, California”

1 prepared by OBRA and approved by DTSC on September 27,
2 2002.

3 (y) “Reuse plan” means the document entitled “Oakland Base
4 Reuse Authority - Gateway to the East Bay: Final Reuse Plan for
5 the Oakland Army Base adopted July 31, 2002.”

6 (z) “Tidelands” means lands waterward of the ordinary high
7 water mark, and includes submerged lands.

8 (aa) “Town grant” means Chapter 107 of the Statutes of 1852.

9 (bb) “Trustee” or “trustees” means OBRA, ORA, the city, and
10 the port, to the extent these entities are authorized by this act or
11 the 1911 grant to administer OARB trust lands.

12 SEC. 3. The Legislature finds and declares all of the
13 following:

14 (a) The purpose of this act is to resolve public trust title
15 uncertainties in the lands comprising the Oakland Army Base
16 redevelopment property, and to facilitate the productive reuse of
17 those lands in a manner that will further the purposes of the trust.
18 To effectuate this purpose, this act approves and authorizes the
19 commission to carry out a boundary settlement and trust
20 exchange under which those lands having the greatest value to
21 the trust will be exchanged into the trust, and those lands that are
22 not needed for trust purposes will be exchanged out of the trust.

23 (b) The OARB redevelopment property includes lands that, at
24 the time California became a state, were tidelands. By virtue of
25 its sovereignty, the state acquired title to these lands in trust for
26 the people of the state for purposes of commerce, navigation, and
27 fisheries.

28 (c) The lands comprising that portion of the OARB
29 redevelopment property north of the 1862 Oakland city charter
30 line, established by Section 2 of Chapter 294 of the Statutes of
31 1862, were conveyed by the state into private ownership pursuant
32 to Chapter 388 of the Statutes of 1869-1870. These lands were
33 filled prior to 1980 and were freed of the trust by application of
34 the holding and decision of the California Supreme Court in *City*
35 *of Berkeley v. Superior Court* (1980) 26 Cal. 3d 515.

36 (d) The remaining tidelands within the OARB redevelopment
37 property were granted to the Town of Oakland and later the City
38 of Oakland by the Legislature. Through a series of grants,
39 including in particular the town grant and the 1911 grant, the
40 State of California granted to the Town of Oakland and later the

1 City of Oakland all the right, title, and interest of the State of
2 California held by the state by virtue of its sovereignty in and to
3 certain tidelands therein described to be forever held by the city
4 and by its successors in trust.

5 (e) The location of tidelands within OARB redevelopment
6 property is subject to uncertainty that could result in lengthy land
7 title litigation. The factors bearing on the uncertainty as to the
8 extent of tidelands within the OARB redevelopment property
9 include, but are not limited to, legal questions concerning an
10 1852 transfer of tidelands along the Oakland waterfront to a
11 private party by the Town of Oakland; the effect of subsequent
12 litigation and court decisions concerning that transfer; and the
13 basis and validity of a 1910 boundary line agreement entered into
14 by the City of Oakland and a private party within the OARB
15 redevelopment property purporting to establish the waterward
16 boundary of lands transferred by the Town of Oakland to a
17 private party in 1852 at what is now the eastern line of Maritime
18 Street.

19 (f) Through a series of acquisitions and condemnation actions
20 beginning in 1941, the United States Army obtained title to what
21 came to be known as the Oakland Army Base. The United States
22 acquired the entirety of the EDC property west of the eastern line
23 of Maritime Street through several condemnation actions, which
24 culminated in a stipulated final judgment in 1952 in United
25 States v. 72 Acres of Land, N.D. Cal. Nos. 21758-L, 21930-L
26 and 22084-L.

27 (g) The former Oakland Army Base was used by the United
28 States from 1941 until it was closed in 1999, primarily as an
29 Army cargo and distribution facility. Pursuant to the Defense
30 Base Closure and Realignment Act of 1990 (Part A of Title
31 XXIX of P.L. 101-510), the base was designated for closure in
32 1995. OBRA was created in 1995 and is the legally recognized
33 local reuse authority for the base under the base closure process.
34 In 1999, the base was closed and OBRA assumed management
35 and control of most of the base. In August 2003, the Army
36 transferred the EDC property to OBRA as a no-cost economic
37 development conveyance. Under federal base closure law, OBRA
38 is required to reinvest proceeds generated at or received from the
39 base for employment generation and economic development of
40 the base for a period of seven years following conveyance.

(h) To address hazardous substances on the EDC property, OBRA commissioned, and DTSC approved in 2002, the RAP/RMP, which set forth cleanup obligations and standards and established risk management protocols for the EDC property. In 2003, OBRA, ORA, and DTSC entered into the consent agreement, providing a schedule for implementing the RAP/RMP, and the Covenant to Restrict Use of Property, establishing use limitations to ensure that future use and development of the EDC property is consistent with the protection of human health and the environment. Prior to the transfer of the EDC property from the Army to OBRA, the Army issued a Finding of Suitability for Early Transfer (FOSET) pursuant to Section 120(h)(3)(C) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (42 U.S.C. Section 9620(h)(3)(C)) and U.S. Department of Defense guidance (1998). In the FOSET, the Army determined that: (1) use restrictions placed on the EDC property through the Covenant to Restrict Use of Property assured protection of human health and the environment; (2) the response actions and risk management protocols identified in the RAP/RMP will assure remediation of the EDC property; (3) the schedule for undertaking those actions is adequately set forth in the consent agreement; and (4) there are adequate funds available to ensure completion of the remediation. Based on the findings in the FOSET and additional financial assurances from the city, OBRA, ORA, and the port to ensure completion of the remediation, the Governor, in accordance with Section 120(h)(3)(C) of CERCLA, concurred with the Army that the EDC property was suitable for early transfer and deferred the covenant required by Section 120(h)(3)(B) of CERCLA.

(i) In anticipation of the transfer of the EDC property to OBRA, the city and the port worked together on a reuse and redevelopment vision for the base, culminating in OBRA's adoption of a final reuse plan for the OARB redevelopment property in 2002. The reuse plan was designed to maximize trust benefits by identifying the optimal configuration of trust lands given current and anticipated port needs, potential waterfront recreational opportunities, and the desire to minimize bay fill.

(j) The reuse plan contemplates a port development area of approximately 235 acres adjacent to the port's existing Oakland

1 Outer Harbor terminals. OBRA has transferred to the port
2 approximately 20 acres of land that is presently filled and 50
3 acres of land that is presently submerged within the port
4 development area west of the eastern line of Maritime Street.
5 Most of the lands in the proposed port development area are
6 located in the portion of the OARB redevelopment property east
7 of Maritime Street, and will later be transferred by OBRA to the
8 port. The port is also seeking to acquire certain interests in the
9 OARB adjacent parcels, which are essential for the port to
10 acquire in order for the port to meet the year 2020 cargo
11 throughput demand forecasts in BCDC's San Francisco Bay Area
12 Seaport Plan. The acquisition of the port development area lands
13 will allow the port to consolidate and reconfigure its existing
14 terminals, expand its cargo capacity, create a new larger and
15 more productive Joint Intermodal Rail Terminal, and construct its
16 proposed Berth 21 project. The port development program was
17 designed to allow the port to achieve the year 2020 cargo
18 throughput demand forecasts set forth in the BCDC's San
19 Francisco Bay Area Seaport Plan. The port has estimated that, as
20 a result of the increased capacity and more efficient design of
21 port facilities made possible by the development of the port
22 development area, overall cargo throughput at the port's
23 maritime facilities could be increased by approximately 500,000
24 metric tons, exceeding the throughput demand forecasts
25 contained in the seaport plan and conferring a substantial benefit
26 on the region and the state.

27 (k) The Gateway development area is situated adjacent to the
28 Bay Bridge touchdown in Oakland at the point of entry to
29 Oakland and the East Bay. The reuse plan proposes a mixed-use
30 development plan to revitalize this area and to satisfy OBRA's
31 federal job-creation and redevelopment obligations. OBRA has
32 proposed the development of a high-quality destination
33 open-space park that would encompass the entire existing
34 waterfront within the proposed Gateway development area.
35 Development of this park would open almost a mile of
36 previously inaccessible waterfront to the public for recreational
37 purposes, and would directly connect with lands currently held
38 by the federal government to the west of the OARB
39 redevelopment property anticipated for use in the future as a
40 shoreline regional park. The remaining lands in the Gateway

1 development area would be developed for a variety of
2 commercial or light industrial uses which would create
3 significant economic and employment benefits for Oakland.

4 (l) Over the past several decades, the community of west
5 Oakland has experienced a sharp decline in economic vitality as
6 a result of a decline in Oakland's industrial base. In 2000, the
7 city approved and adopted the Oakland Army Base Area
8 Redevelopment Plan for the Oakland Army Base Area
9 Redevelopment Project, pursuant to the Community
10 Redevelopment Law (Part 1 (commencing with Section 33000)
11 of Division 24 of the Health and Safety Code). The
12 redevelopment project area includes the OARB redevelopment
13 property. The redevelopment project is intended to mitigate the
14 economic and social degradation faced by the city due to the
15 closure of the Army base by redesigning and redeveloping
16 portions of the project area which are improperly utilized,
17 improving pedestrian and vehicular circulation, and constructing
18 and installing infrastructure and other improvements to stimulate
19 new development, employment, and social and economic growth.
20 The city and OBRA anticipate that ORA will succeed to OBRA's
21 interest in the Gateway development area portion of the OARB
22 redevelopment property.

23 (m) In recognition of the improved efficiencies and increased
24 maritime cargo capability that the reconfigured port marine
25 terminals and Joint Intermodal Rail Terminal would provide, and
26 to ensure the availability of adequate land for port ancillary uses,
27 including trucking uses, BCDC amended the San Francisco Bay
28 plan and the San Francisco Bay Area seaport plan in 2001 to add
29 certain lands to its designated port priority use area, retain the
30 port priority use designation over the port development area and
31 a portion of the Gateway development area, and remove the
32 designation from the remainder of the Gateway development
33 area. BCDC determined that the additional port priority use
34 acreage for port ancillary uses is sufficient to meet the need for
35 directly related port ancillary uses at the Port of Oakland.

36 (n) The historical circumstances surrounding the grants and
37 conveyances of tidelands within the OARB redevelopment
38 property, the 1910 boundary line agreement, the fact and manner
39 of the federal government's acquisition of tidelands for OARB,
40 and other factors relating to the state's public trust claims have

1 all created uncertainties as to the nature and extent of the state's
2 sovereign interest in the OARB redevelopment property. These
3 legal uncertainties, including trial litigation and possible appeals
4 from trial court rulings, would delay development of the OARB
5 redevelopment property for years, to the detriment of its use for
6 both public trust and nonpublic trust purposes. It is in the best
7 interests of the people of the state to resolve these uncertainties in
8 a manner that furthers trust purposes.

9 (o) A configuration of trust lands that is based on the 1910
10 boundary line agreement would not reflect current and
11 anticipated trust needs. The lands east of Maritime Street within
12 the port development area are needed to expand the port's
13 terminal and transportation capacity and meet BCDC's 2020
14 cargo throughput demand forecasts. The lands west of the eastern
15 line of Maritime Street within the Gateway development area are
16 not needed to meet these forecasts. The waterfront portion of
17 these lands is better suited for park and recreational purposes,
18 and the landward portion is no longer needed for trust purposes.

19 (p) (1) A trust exchange is needed to confirm the state's
20 sovereign interest in lands within the OARB redevelopment
21 property and to place the trust on the lands of greatest value to
22 the trust. A trust exchange that substantially reflects the proposed
23 trust land configuration illustrated in Section 15 and that
24 complies with the requirements of this act will further trust
25 purposes and substantially benefit the trust while allowing
26 OBRA to achieve redevelopment goals set forth in the reuse plan
27 and state redevelopment law and to satisfy federal reinvestment
28 obligations.

29 (2) The diagram in Section 15 reflects the configuration of
30 trust lands that is most advantageous to the public trust in light of
31 all relevant considerations, including, but not limited to, port
32 improvement plans, public access, and other present and
33 anticipated future trust needs; legal and factual uncertainties in
34 existing trust title; port ancillary uses; lands needed for Bay
35 Bridge construction and maintenance, and other current and
36 anticipated future transportation needs; and the city's
37 redevelopment and reinvestment obligations.

38 (q) Following the exchange, all lands within the OARB
39 redevelopment property immediately adjacent to the waterfront,
40 as well as certain interior lands that have high trust values, will

1 be subject to the public trust. The lands on which the trust will be
2 terminated pursuant to the exchange have been or will be cut off
3 from navigable waters, are no longer needed or required for the
4 promotion of the public trust, and constitute a relatively small
5 portion of the lands originally granted to the city. The port's
6 Berth 21 project is part of a highly beneficial program of harbor
7 development that will require the filling with solid earth of
8 approximately 28 acres of land below the present line of mean
9 high tide, including a strip of approximately 0.84 acres that is
10 located in the Gateway development area. The findings required
11 by this act will ensure that the trust is not terminated on this strip
12 of land pursuant to an exchange until it has been filled and cut off
13 from the waterfront. With the exception of this strip, all lands on
14 which the trust will be terminated have already been filled and
15 cut off from navigable waters as the result of a highly beneficial
16 program of harbor development. This act requires that the
17 commission ensure that the lands added to the trust pursuant to
18 the exchange are of equal or greater value than the lands taken
19 out of the trust.

20 (r) The OARB adjacent parcels are not part of the EDC
21 property that was transferred to OBRA, but are located within the
22 OARB redevelopment property, and are included in the port
23 development area or the Gateway development area. The city,
24 OBRA, ORA, and the port are seeking to acquire title or certain
25 other rights and interests in these lands. This act authorizes the
26 commission to incorporate the OARB adjacent parcels into the
27 trust exchange as necessary and appropriate to further trust
28 purposes.

29 (s) This legislation advances the purposes of the Defense Base
30 Closure and Realignment Act of 1990 (Part A of Title XXIX of
31 P.L. 101-510), the Community Redevelopment Law (Part 1
32 (commencing with Section 33000) of Division 24 of the Health
33 and Safety Code), and the public trust, and is in the best interests
34 of the people of this state.

35 SEC. 4. (a) Except for the portions of the EDC property in
36 which OBRA has previously transferred to the port all of
37 OBRA's right, title, and interest, which shall be held by the port
38 subject to the public trust and the requirements and reservations
39 set forth in the 1911 grant and this act, all of the state's right,
40 title, and interest in the lands within the EDC property, including

1 any right, title, and interest in such lands currently held by the
2 city by virtue of a prior grant from the state, are granted to and
3 vested in OBRA, subject to the public trust and the requirements
4 and reservations set forth in the 1911 grant and this act, and
5 subject to agreements among OBRA, ORA, the city, and the port
6 providing for the transfer to the port of other portions of the EDC
7 property included within the port development area, to the extent
8 that those agreements and any of their terms, conditions, and
9 covenants are consistent with applicable law related to the public
10 trust.

11 (b) Nothing in this act shall be construed as granting,
12 conveying or limiting any right, title and interest in the OARB
13 property, including any easement rights, held by the California
14 Department of Transportation in its proprietary capacity.

15 SEC. 5. (a) Notwithstanding the restrictions on alienation in
16 the 1911 grant, OARB trust lands may be conveyed by and
17 among OBRA, ORA, the city, and the port in accordance with
18 applicable requirements, of the Charter of the City of Oakland,
19 other applicable legal requirements, and any applicable
20 contractual requirements, provided that any contractual
21 requirements are consistent with applicable law related to the
22 public trust. Any such conveyance for which conveyance
23 documents are executed after the recordation of an exchange
24 agreement authorized by this act shall require the prior approval
25 of the commission, which shall not be unreasonably withheld.
26 Upon acquiring fee title in any OARB trust lands pursuant to
27 such conveyance or pursuant to an exchange, OBRA, ORA, the
28 city, or the port shall succeed to all of the state's sovereign right,
29 title, and interest in those lands, subject to the requirements of
30 this act and the 1911 grant, and shall become the trustee for those
31 lands.

32 (b) Notwithstanding subdivision (a) of this section, at such
33 time that the Oakland Army Base Area Redevelopment Plan
34 terminates, or on January 1, 2045, whichever is earlier, the city
35 (including the port) shall become the sole grantee of OARB trust
36 lands, unless an extension is approved by the commission. This
37 subdivision shall not apply to any OARB trust lands for which
38 fee title is held by a state agency.

39 SEC. 6. Each trustee may use, conduct, operate, maintain,
40 manage, administer, regulate, improve, lease, and control the

OARB trust lands it owns and may do all things necessary in connection with that authority that conform with the terms of this act, the 1911 grant, and the public trust, including the development of public open space and recreational facilities.

SEC. 7. Monetary contributions by the port to a community trust fund established or funded by the city, OBRA, or ORA in connection with redevelopment of the EDC property shall be used only for uses and purposes consistent with the trust and the requirements of this act. Contributions by the port to this community trust fund shall not exceed a total of two million dollars (\$2,000,000). The trustee with control or supervisory authority over the community trust fund (hereinafter “supervisory trustee”) shall separately account for, and provide the commission an annual statement of, all moneys received from the port and expenditures of those moneys. Prior to expending any community trust fund moneys received from the port, the supervisory trustee shall provide commission staff with a list and description of potential projects that would be funded in whole or in part with those moneys. Within 90 days of the submittal of the list to the commission staff, the executive officer of the commission shall either approve the list or notify the supervisory trustee which projects on the list are not consistent with the public trust. The supervisory trustee may appeal to the commission any decision by the executive officer to disapprove some or all of the projects on the list. No port moneys shall be spent on community trust fund projects unless both of the following conditions are met:

(a) The executive officer or the commission has approved one or more of the potential projects on the list.

(b) The expenditures are for one or more of the approved projects that are on the list.

SEC. 8. The Legislature hereby approves an exchange of public trust lands within the OARB redevelopment property, whereby certain lands that meet the criteria set forth in this act and are not now useful for public trust purposes will be freed from the public trust and may be conveyed free of any trust interest, and certain other lands that are useful for public trust purposes will be made subject to the public trust, provided that the exchange results in a configuration of trust lands substantially

1 similar to that shown on the diagram in Section 15 of this act and
2 otherwise complies with the requirements of this act.

3 SEC. 9. All lands exchanged into the trust under this act shall
4 be held by the appropriate trustee or trustees subject to the public
5 trust, and the requirements of this act and the 1911 grant, and all
6 lands exchanged out of the trust under this act shall be free of the
7 public trust, the requirements of this act, the town grant, and the
8 1911 grant.

9 SEC. 10. The precise boundaries of the lands to be exchanged
10 shall be determined by the trustees with trustee authority over the
11 lands to be exchanged, subject to the approval of the
12 commission. The commission is authorized to settle by
13 agreement with the appropriate trustees any disputes as to the
14 location of the mean high water line in its last natural state, the
15 boundaries of tidelands conveyed into private ownership
16 pursuant to various statutes, and any other boundary lines which
17 the commission deems necessary to effectuate the exchange. The
18 commission may include any of the OARB adjacent parcels in
19 the exchange if it determines that the inclusion of these lands
20 would be substantially consistent with the configuration of trust
21 lands shown in the diagram in Section 15 of this act and would
22 otherwise satisfy the requirements of this act. Nothing in this act
23 shall be construed as limiting the authority of the commission to
24 approve additional trust land exchanges or to enter into boundary
25 settlements involving the OARB redevelopment property
26 pursuant to any other provision of law.

27 SEC. 11. (a) The commission is authorized to approve an
28 exchange of public trust lands within the OARB redevelopment
29 property that meets the requirements of this act. Pursuant to this
30 authority, the commission shall establish appropriate procedures
31 for effectuating the exchange. The procedures shall include
32 provisions for ensuring that the requirements specified in either
33 paragraph (1) or (2) have occurred:

34 (1) Property to be received or confirmed in public trust
35 ownership has been remediated consistent with the requirements
36 of the RAP/RMP and Consent Agreement, and there are no land
37 use covenants or restrictions on the property, other than the
38 existing Covenant to Restrict Use of Property, that impede its use
39 for public trust purposes, unless approved by the commission.

(2) Sufficient protections are in place to ensure that the remedial actions for property to be received or confirmed in public trust ownership will be completed consistent with the timeframe and standards set forth in the RAP/RMP and Consent Agreement, and there are no land use covenants or restrictions on the property, other than the existing Covenant to Restrict Use of Property, that impede its use for public trust purposes, unless approved by the commission. Protections may be demonstrated by a showing of sufficient financial assurances consistent with Oakland Base Reuse Authority Resolution No. 2003-13, Port of Oakland Resolution No. 03150, Oakland City Council Resolution No. 77857, and Oakland Redevelopment Agency Resolution No. 2003-29, as those resolutions read on January 1, 2004, and may include insurance, third-party indemnifications, and sufficient funds to complete remediation.

(3) The commission may consult with DTSC regarding the factors stated in paragraphs (1) and (2).

(b) The commission shall not approve the exchange of any OARB trust lands unless it finds all of the following:

(1) The configuration of OARB trust lands upon completion of the exchange will not differ significantly from the configuration shown on the diagram in Section 15 of this act, includes all lands within the OARB redevelopment property that are below mean high tide at the time of the exchange, with the exception of the strip of submerged land within the Gateway development area that will be filled and cut off from the waterfront by the Berth 21 project described in subdivision (q) of Section 3 of this act, and consists of lands suitable to be impressed with the public trust.

(2) The final layout of streets in the Gateway development area and the port development area will provide public vehicular, pedestrian, and bicycle access to the public trust lands within those respective areas, and through those areas to the lands adjoining the Gateway development area on its westerly side, and will be consistent with the beneficial use of those lands.

(3) The value of the lands to be exchanged into the trust is equal to or greater than the value of the lands to be exchanged out of the trust. The commission may take into consideration the degree of uncertainty, if any, as to whether the lands are presently subject to the trust.

1 (4) The lands to be taken out of the trust have been filled and
2 reclaimed as the result of a highly beneficial program of harbor
3 development, are cut off from access to navigable waters, are no
4 longer needed or required for the promotion of the public trust,
5 and constitute a relatively small portion of the lands originally
6 granted to the city, and that the exchange will not result in
7 substantial interference with trust uses and purposes.

8 (5) The OARB MOA has been amended to eliminate the
9 concept of the “City Cash-Out Remedy” as defined in Section
10 1.1(a)(17) and as referenced in Sections 2.2(d), 3.3(c)(1), 4.1,
11 5.1(b)(2), 5.1(c)(2), 5.1(e), 6.2(b)(3), 6.5, 8.4, 11.17, and
12 elsewhere in the OARB MOA, or in any amendment to the
13 OARB MOA.

14 (6) Each trustee, and any state agency, which owns fee title in
15 any of the lands to be exchanged has approved the exchange.

16 (c) The commission shall impose additional conditions on the
17 exchange authorized by this act if the commission determines
18 that these conditions are necessary for the protection of the
19 public trust.

20 (d) For purposes of effectuating the exchange authorized by
21 this section, the commission is authorized to do all of the
22 following:

23 (1) Receive and accept on behalf of the state any lands or
24 interest in lands conveyed to the state by the trustees, including
25 lands that are now and that will remain subject to the public trust.

26 (2) Convey to the trustees by patent all of the right, title, and
27 interest of the state in lands that are to be free of the public trust
28 upon completion of an exchange of lands as authorized by this
29 act and as approved by the commission.

30 (3) Convey to the trustees by patent all of the right, title, and
31 interest of the state in lands that are to be subject to the public
32 trust and the terms of this act and the 1911 grant upon
33 completion of an exchange of lands as authorized by this act and
34 as approved by the commission, subject to the terms, conditions,
35 and reservations as the commission may determine are necessary
36 to meet the requirements of this act.

37 SEC. 12. Any agreement for the exchange of, or trust
38 termination over, granted lands, or to establish boundary lines,
39 entered into pursuant to this act, shall be conclusively presumed
40 to be valid unless held to be invalid in an appropriate proceeding

1 in a court of competent jurisdiction to determine the validity of
2 the agreement commenced within 60 days after the recording of
3 the agreement.

4 SEC. 13. (a) An action may be brought under Chapter 4
5 (commencing with Section 760.010) of Title 10 of Part 2 of the
6 Code of Civil Procedure by the parties to any agreement entered
7 into pursuant to this act to confirm the validity of the agreement.
8 Notwithstanding any provision of Section 764.080 of the Code of
9 Civil Procedure, the statement of decision in the action shall
10 include a recitation of the underlying facts and a determination
11 whether the agreement meets the requirements of this act,
12 Sections 3 and 4 of Article X of the California Constitution, and
13 any other law applicable to the validity of the agreement.

14 (b) For purposes of Section 764.080 of the Code of Civil
15 Procedure and unless otherwise agreed in writing, any settlement
16 or exchange agreement entered into pursuant to this act shall be
17 deemed to be entered into on the date it is executed by the
18 executive officer of the commission, who shall be the last of the
19 parties to sign prior to the signature of the Governor. The
20 effective date of the agreement shall be deemed to be the date on
21 which it is executed by the Governor pursuant to Section 6107 of
22 the Public Resources Code.

23 SEC. 14. Notwithstanding Section 6359 of the Public
24 Resources Code or any other provision of law, the grant of trust
25 lands authorized herein shall be deemed effective as of the
26 effective date of this act.

27 SEC. 15. The following diagram is a part of this act:

- 1
- 2 NOTE TO PRINTING OFFICE: INSERT CAMERA-READY
- 3 COPY HERE
- 4 Oakland Army Base Public Trust Exchange Act of 2005

1 SEC. 16. The Legislature finds and declares that, because of
2 the unique circumstances applicable only to the trust lands
3 described in this act, relating to the Oakland Army Base
4 redevelopment property, a statute of general applicability cannot
5 be enacted within the meaning of subdivision (b) of Section 16 of
6 Article IV of the California Constitution. Therefore, this special
7 statute is necessary.

8 SEC. 17. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 The public benefits of improving the trust land configuration,
13 resolving title disputes, and redeveloping the lands within the
14 OARB Redevelopment property, cannot be obtained until a trust
15 exchange is completed. To prevent interference with the purposes
16 of the public trust and to avoid prolonged delays in realizing the
17 fullest use of those lands for the maximum benefit of the
18 statutory trust purposes, immediate implementation of the trust
19 exchange process is required. It is necessary, therefore, that this
20 act take effect immediately.